

MEETING MINUTES CITY OF MILPITAS

Minutes of: Special Meeting of the Milpitas City Council
Date: Tuesday, September 12, 2006
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd.

I. ROLL CALL Mayor Esteves called the meeting to order at 6:00 PM.

PRESENT: Mayor Esteves, Vice Mayor Gomez, Councilmembers
Giordano and Livengood

ABSENT: Councilmember Polanski

PLEDGE The Mayor led all present in the Pledge of Allegiance.

II. PUBLIC FORUM

Bill Ferguson, invited those present to a community forum at the Milpitas Community Center on Monday, Sept. 18 at 7:00 PM, featuring speaker Don Weden, retired county planner from Santa Clara County, on "Communities of Today and Tomorrow" regarding mixed-use, high density developments.

Dave Richerson, Milpitas resident spoke on SVRTC, spoke about BART to Silicon Valley, and that he was disturbed about an article in the Milpitas Post that termed it "BART to San Jose." He was unhappy when people write BART to San Jose, when actually there will be a station location in Milpitas. His view was to fight for Milpitas's representation.

III. PLANNING COMMISSION INTERVIEWS

Before the City Council began any discussion of the scheduled topic, Mayor Esteves stated that there was a relatively new opinion issued from the Office of the Attorney General, relevant to appointing Planning Commissioners by Mayor vs. the entire Council. The Mayor suggested that the Council could proceed as scheduled, despite the information given.

City Attorney Mattas stated the two opinions from the Attorney General were non-binding authority, as an appellate court decision or legislation on this subject might be. A recent statement issued indicated that the Attorney General believed a Mayor has authority to make recommendations to Commissions (including Planning), subject to the confirmation of the City Council (as is done with other Commissions presently in Milpitas).

Councilmember Livengood remarked that he would be uncomfortable making an appointment this evening if uncertain as to law or the Attorney General opinion. Current ordinance directed the City

Council on how to make appointments in Milpitas, and perhaps that should be reviewed or changed. There should a clear process, supported by law, on how to make appointments to the Planning Commission.

Councilmember Giordano wanted the process set in place in advance, as had been done in the past, and wished to proceed with interviewing the candidates present.

The City Attorney clarified that the Council might want to amend current City ordinance to permit the Mayor to make a recommendation to the Planning Commission, subject to confirmation by Council (a change from current practice including interviews).

Mayor Esteves remarked that he was not in favor of the ordinance to create the position of Planning Commission alternate, and that for the process this evening, he did not have a preference either way. He would be willing to go along with the majority of the Council, in whichever way they wanted to proceed.

Motion: withhold further action on this particular vacancy (Planning Commission alternate), until such time as the City Attorney provided the Attorney General opinion, reviewed the current ordinance and provide guidance, and review this appointment at a later date (suggested in October)

Vice Mayor Gomez concurred with his colleagues on the motion, thanked the applicants and apologized for the outcome, and he asked the City Attorney to explain the situation to those three men.

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Polanski)

IV. ADJOURNMENT

The Council meeting was adjourned at 6:22 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on September 19, 2006.

Mary Lavelle
City Clerk